

Good News for Family-Owned Businesses

Just over a year ago, the U.S. Department of the Treasury issued proposed regulations under Internal Revenue Code Section 2704. These regulations were designed to, in some cases, disregard restrictions on the ability to liquidate family-controlled entities when determining the fair market value of an interest in the entity for estate and gift tax purposes. Disregarding these restrictions would have minimized or perhaps eliminated the valuation discounts on transfers of interests in family-controlled businesses. This would have also potentially changed the definition of fair market value.

The American Institute of Certified Public Accountants (AICPA), the American Society of Appraisers (ASA) the National Association of Certified Valuation Analysts (NACVA) as well as business groups, wealth planners, attorneys and family businesses banded together to oppose these regulations.

The good news is that last week the Treasury Department withdrew these regulations entirely. A Treasury press release said the regulations “would have hurt family-owned and operated businesses by limiting valuation discounts” and “made it difficult and costly for a family to transfer their business to the next generation.” This announcement comes as no surprise to the business valuation profession. At the recent ASA National conference in Houston, Texas, Trey Stevens and Chris Treharne commented:

“We’re not surprised by the withdrawal of the proposed regs. The November presidential election outcome, the enforceability of the proposed redefinition of fair market value and the pushback from legal, valuation and business communities certainly provided significant obstacles to adoption. At best, the proposed regs were poorly crafted and added confusion. At worst, adoption may have had a significant adverse impact on the ability of closely held business owners to pass the American dream of business ownership on to their heirs.”

As part of the announcement, the Treasury identified other proposed regulations that would be withdrawn or revised.

**What regulations affect you and your family-owned business?
Contact JPS to learn more.**

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